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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues Against:

Case No. S-355

SARAH ANNE MEYERS
2200 Alta Vista Drive #E
Bakersfield, California 93305

STATEMENT OF ISSUES

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Statement of Issues solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about June 20, 2005, the Respiratory Care Board of California (Board) received an application for a Respiratory Care Practitioner License from Sarah Anne Meyers (Respondent). On or about May 16, 2005, Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Board denied the application on August 31, 2005.

JURISDICTION

3. This Statement of Issues is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless

1 otherwise indicated.

2 4. Section 3710 of the Code states: "The Respiratory Care Board of
3 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3,
4 the Respiratory Care Practice Act]."

5 5. Section 3718 of the Code states: "The board shall issue, deny, suspend, and
6 revoke licenses to practice respiratory care as provided in this chapter."

7 6. Section 3732, subdivision (b) of the Code states:

8 "The board may deny an application, or may order the issuance of a license
9 with terms and conditions, for any of the causes specified in this chapter for
10 suspension or revocation of a license, including, but not limited to, those causes
11 specified in Sections 3750, 3750.5, 3752.5, 3752.6, 3755, 3757, 3760, and 3761."

12 7. Section 3750 of the Code states:

13 "The board may order the denial, suspension or revocation of, or the
14 imposition of probationary conditions upon, a license issued under this chapter, for
15 any of the following causes:

16 " . . .

17 "(d) Conviction of a crime that substantially relates to the qualifications,
18 functions, or duties of a respiratory care practitioner. The record of conviction or a
19 certified copy thereof shall be conclusive evidence of the conviction. . . ."

20 8. Section 3752 of the Code states:

21 "A plea or verdict of guilty or a conviction following a plea of nolo
22 contendere made to a charge of any offense which substantially relates to the
23 qualifications, functions, or duties of a respiratory care practitioner is deemed to be a
24 conviction within the meaning of this article. The board shall order the license
25 suspended or revoked, or may decline to issue a license, when the time for appeal
26 has elapsed, or the judgment of conviction has been affirmed on appeal or when an
27 order granting probation is made suspending the imposition of sentence, irrespective
28 of a subsequent order under Section 1203.4 of the Penal Code allowing the person

1 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside
2 the verdict of guilty, or dismissing the accusation, information, or indictment.”

3 9. California Code of Regulations, Title 16, section 1399.370, states:

4 “For the purposes of denial, suspension, or revocation of a license, a crime or
5 act shall be considered to be substantially related to the qualifications, functions or
6 duties of a respiratory care practitioner, if it evidences present or potential unfitness
7 of a licensee to perform the functions authorized by his or her license or in a manner
8 inconsistent with the public health, safety, or welfare. Such crimes or acts shall
9 include but not be limited to those involving the following:

10 “ . . .

11 “(c) Conviction of a crime involving driving under the influence or reckless
12 driving while under the influence. . . .”

13 14 COST RECOVERY

15 10. Section 3753.5, subdivision (a) of the Code states:

16 "In any order issued in resolution of a disciplinary proceeding before the
17 board, the board or the administrative law judge may direct any practitioner or applicant
18 found to have committed a violation or violations of law to pay to the board a sum not to
19 exceed the costs of the investigation and prosecution of the case."

20 11. Section 3753.7 of the Code states:

21 "For purposes of the Respiratory Care Practice Act, costs of prosecution
22 shall include attorney general or other prosecuting attorney fees, expert witness fees, and
23 other administrative, filing, and service fees."

24 12. Section 3753.1, subdivision (a) of the Code states:

25 "An administrative disciplinary decision imposing terms of probation may
26 include, among other things, a requirement that the licensee-probationer pay the monetary
27 costs associated with monitoring the probation."

28 CAUSE FOR DENIAL OF APPLICATION

1 (Conviction of a Crime)

2 13. Respondent's application is subject to denial under Code sections
3 3750, subdivision (d), 3752, and California Code of Regulations, Title 16, section
4 1399.370, subdivision (c), in conjunction with section 3732, subdivision (b), in that
5 respondent was convicted of crimes substantially related to the qualifications, functions and
6 duties of a respiratory care practitioner. The circumstances are as follows:

7 June 20, 2001 Conviction

8 A. On or about May 27, 2001, respondent was arrested by California
9 Highway Patrol officers. A complaint was filed against respondent in a criminal
10 proceeding entitled *People v. Sarah A. Meyers*, in Superior Court, Kern County,
11 Case No. BM604872A. Respondent was charged with violating Vehicle Code
12 sections 23152(a), driving under the influence of alcohol (count 1), 23152(b),
13 driving with .08% or higher blood alcohol level (count 2), and 16028(a), failure to
14 provide proof of financial responsibility (count 3). On June 20, 2001, the complaint
15 was amended to add count 4, reckless driving involving alcohol, a violation of
16 Vehicle Code section 23103.5(a).

17 B. On June 20, 2001, respondent was convicted upon her plea of guilty
18 to count 3, failure to provide proof of financial responsibility and count 4, reckless
19 driving involving alcohol. As to count 4, respondent was placed on probation for
20 three years. She was ordered to pay a fine of \$750.00, serve one day in custody
21 (with credit for one day), participate in a licensed alcohol education program for at
22 least three months and participate in a victim impact panel. As to count 3, her fine
23 was suspended. Counts 1 and 2 of the complaint were dismissed.

24 August 16, 2001 Conviction

25 C. On or about July 26, 2001, respondent was arrested by California
26 Highway Patrol officers. On August 1, 2001, a complaint was filed against
27 respondent in a criminal proceeding entitled *People v. Sarah Anne Meyers*, in
28 Superior Court, Kern County, Case No. BM607918A. Respondent was charged

1 with violating Vehicle Code sections 23152(a), driving under the influence of
2 alcohol (count 1), 23152(b), driving with .08% or higher blood alcohol level (count
3 2), 14601.5(a), driving with a suspended license (count 3), and 16028(a), failure to
4 provide proof of financial responsibility (count 4).

5 D. On August 16, 2001, respondent was convicted upon her plea of
6 nolo contendere to count 1, driving under the influence of alcohol, count 3, driving
7 with a suspended license, and count 4, failure to provide proof of financial
8 responsibility. As to counts 1 and 3, respondent was placed on probation for three
9 years. As to count 1, she was ordered to serve 45 days in custody (with credit for 1
10 day) and pay a fine of \$1,258.00. As to count 3, she was ordered to pay a fine of
11 \$500.00, and as to count 4, her fine was suspended. Respondent's driving privilege
12 was suspended for two years and she was ordered to participate in a licensed alcohol
13 education program for at least six months. Count 2 of the complaint was dismissed.

14 Substantial Relationship

15 E. Respondent's convictions for driving under the influence of alcohol,
16 driving with a suspended license and failure to provide proof of financial
17 responsibility are substantially related to the qualifications, functions and duties of a
18 respiratory care practitioner. They reflect a lack of sound professional and personal
19 judgment that is relevant to a respiratory care practitioner's fitness and competence
20 to practice respiratory care. In this regard, alcohol consumption quickly affects
21 normal driving ability, and driving under the influence of alcohol threatens personal
22 safety and places the safety of the public in jeopardy. It further shows a disregard of
23 medical knowledge concerning the effects of alcohol on vision, reaction time, motor
24 skills, judgment, coordination and memory, and the ability to judge speed,
25 dimensions and distance. The convictions also demonstrate an inability or
26 unwillingness of respondent to obey the legal prohibition against drinking and
27 driving and constitutes a serious breach of a duty owed to society. Repeated
28 convictions involving alcohol use reflect poorly on respondent's common sense and

1 professional judgment, which are essential to the practice of respiratory care, and
2 tend to undermine public confidence in and respect for the profession.

3 PRAYER

4 WHEREFORE, Complainant requests that a hearing be held on the matters
5 herein alleged, and that following the hearing, the Respiratory Care Board issue a decision:

6 1. Denying the application of Sarah Anne Meyers for a Respiratory
7 Care Practitioner license;

8 2. Directing Sarah Anne Meyers to pay the Respiratory Care Board the
9 costs of the investigation and enforcement of this case, and if placed on probation, the costs
10 of probation monitoring;

11 3. Taking such other and further action as deemed necessary and
12 proper.

13 DATED: January 27, 2006
14

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16 Original signed by Liane Zimmerman for:
17 STEPHANIE NUNEZ
18 Executive Officer
19 Respiratory Care Board of California
20 Department of Consumer Affairs
21 State of California
22 Complainant
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